

E-Filed 10/12/05

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SUN MICROSYSTEMS, INC., et al.,

Plaintiffs,

v.

SEAORIA SIGNARS LEMA, et al.,

Defendants.

Case Number C 04-04968 JF

ORDER¹ GRANTING IN PART
PLAINTIFFS' MOTION FOR
FURTHER ATTORNEY'S FEES

[Docket No. 45]

Plaintiffs Sun Microsystems, Inc. and Sun Microsystems, Inc. Tax Deferred Retirement Savings Plan ("Plan") (collectively "Plaintiffs") brought this action in interpleader pursuant to the Employee Retirement Income Security Act of 1974 and Federal Rule of Civil Procedure 22 to determine who among the seven Defendants is or are the proper beneficiary or beneficiaries of Michael H. Lema's account under the Plan.² On June 9, 2005, the Court granted in part and denied in part Plaintiffs' initial motion for attorney's fees and costs, awarding Plaintiffs the full

¹ This disposition is not designated for publication and may not be cited.

² The Court's Order of June 9, 2005, recites the factual background of this action, which the Court will not repeat here.

1 amount of attorney's fees and costs they requested—\$16,086.21—charging \$8,148.75 against
 2 Michael-Anthony Lawrence Lema and the remaining \$7,937.46 against the interpleaded fund.

3 Plaintiffs now move to recover from the interpleaded fund \$12,860.00 in attorney's fees
 4 incurred in April and May 2005 in prosecuting this interpleader action that were not included in
 5 their previous motion for attorney's fees and costs.³ Defendant Seaoria Signars Lema opposes
 6 the motion for further attorney's fees "to the extent such fees were incurred by Plaintiffs in
 7 contesting their right to attorney's fees." Opp'n at 1. Having considered the briefs and the
 8 arguments of counsel at the hearing on October 7, 2005, the Court concludes that a further award
 9 of attorney's fees is appropriate but that the amount requested by Plaintiffs is excessive. Indeed,
 10 granting Plaintiffs the full amount of attorney's fees requested is not warranted by the recognized
 11 policy reasons supporting the award of attorney's fees to stakeholders. *See Schirmer Stevedoring*
 12 *Co. v. Seaboard Stevedoring Corp.*, 306 F.2d 188, 193-94 (9th Cir. 1962); *see also Trs. of the*
 13 *Dirs. Guild of Am.-Producer Pension Benefits Plans v. Tise*, 234 F.3d 415, 426 (9th Cir. 2000)
 14 (stating that awards of attorney's fees are "properly limited to those fees that are incurred in filing
 15 the action and pursuing the plan's release from liability").

16 Good cause therefore appearing, IT IS HEREBY ORDERED that Plaintiffs shall be
 17 entitled to a further award of attorney's fees in the amount of \$3,215.00, to be assessed against
 18 the interpleaded fund.

19
 20
 21 DATED: October 11, 2005

22
 23 /s/ electronic signature authorized
 24 JEREMY FOGEL
 25 United States District Judge
 26

27
 28 ³ The Court's calculation of attorney's fees and costs awarded in its Order of June 9,
 2005, was based on invoices showing legal work by Plaintiffs' counsel through March 21, 2005.

1 This Order has been served upon the following persons:

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